

## **UNDERSTANDING DEBT MANAGEMENT SERVICES**

Consumers who are having trouble making ends meet might want to consider the services offered by Debt Management or Debt Settlement Companies. These businesses can be for-profit or not-for-profit enterprises. You may see advertisements on television, in the newspapers, on pop-up internet ads or you may receive mail or even phone calls directly from businesses advertising these services. Businesses providing debt management and debt settlement services for a fee in Delaware must be licensed if they do not fall within an exception to the law. Protect yourself from paying too much for too little by understanding your options and rights.

Some businesses offering debt management services try to negotiate with your creditors to reduce interest and late fees on your debt. You will talk first with a certified credit counselor who will help you decide whether you need a debt management plan. If you agree to a plan, you make payments to the debt management provider who makes payments on your behalf to your creditors. You will be charged fees for the service.

Other businesses offer debt settlement services; they negotiate with your creditors to settle a debt for less than the full amount owed. You will talk to a certified credit counselor who will help you decide if you need this service. No payments are made on your account by the debt settlement provider until a settlement is reached. Your account will be delinquent unless you continue making the payments yourself. You will be charged fees for the services.

Do not assume using debt management or settlement services is your only option to resolve debt that may seem overwhelming. Think about alternatives such as:

- You may be able to pay off the debt with some careful budgeting that reduces spending.
- Perhaps a part-time job or other plan to increase income could help you to find the money to pay off your debts.
- Talk to your creditors directly to see if they can reduce your interest rate and lower your payments.
- Consider consolidating debt by borrowing with more favorable terms such as from a family member or credit union. Be careful about increasing your mortgage to pay unsecured credit card debt as you do not want to put your home at risk.
- Some consumers with high unsecured debt may need to consider filing for bankruptcy.

If you consider debt management services, be smart. Investigate providers and compare costs and services. Here are some additional tips:

- Make sure the business is licensed in Delaware. If you are offered services by an unlicensed provider, contact the Consumer Protection Unit of the Office of the Attorney General at 302-577-8600.

- Check with the Better Business Bureau to see if other consumers have made complaints about the company.
- Avoid businesses using high pressure sales tactics. All debt management providers must offer credit counseling before enrolling you in any plan. Make sure the counseling is meaningful.
- Many trade associations set standards for members. Ask about a provider's membership in trade associations.
- Ask about and understand the fee schedule. If the provider wants to keep the first month's payment in a debt management plan as a fee, walk away and don't look back!
- Get and review all agreements **before you sign**. Never sign any document unless you understand what it says. Don't rely on what someone else tells you it says, read and understand it yourself.
- Under the law, an agreement between a debt management company and a consumer must comply with all of the following requirements:
  - Be in writing - a record must be created
  - Be dated and signed by the provider and the consumer
  - Include the name of the consumer and the address where he or she resides
  - Include the name, business address, and telephone number of the debt management provider
  - Be delivered to the consumer immediately upon formation of the agreement when it is signed
  - Disclose the following:
    - The services to be provided
    - The amount or method of determining the amount of all consumer fees, individually itemized
    - The schedule of payments to be made by or on behalf of the consumer, including the amount of each payment, the date each payment is due, and an estimate of the date of the final payment
    - If the plan provides for regular periodic payments to creditors, the name of each creditor, amount owed, concessions made by the creditor, scheduled payments and payment dates to the creditor
    - Each creditor who may not participate in the plan
    - That the provider may terminate the agreement with good cause after returning unexpended money from the consumer
    - How the consumer will receive the periodic reports required
    - The internet address and phone number of the Attorney General
  - Include a notice that the consumer has the right to terminate the agreement by giving the provider notice as provided in 6 *Del.C.* §2419A(d)
  - Provide for authorization to the bank holding a trust account that includes money from the consumer to disclose records to the Attorney General
  - Advise consumers that they will be notified within 5 days if a creditor rejects or withdraws from a plan

- Be accompanied by a notice, in bold-face type surrounded by bold black lines, that the consumer has the right to cancel before midnight of the third business day after a consumer makes the agreement
- An agreement that does not contain the required information and notices may be cancelled by the consumer up to 30 day after making the agreement

### **KNOW YOUR RIGHTS UNDER THE LAW**

Before meeting with a debt management representative, know and understand the rights you have as a consumer under the law. Here's a summary of your rights:

- A provider cannot charge you for debt management services until an agreement is signed.
- If a debt management plan contemplates that creditors may reduce finance charges and late fees, the provider may charge no more that \$50 for consultation, obtaining a credit report, setting up the account, and the like and a monthly services fee not to exceed \$10 times the number of creditors remaining when the fee is assessed up to \$50/month.
- If a debt settlement plan contemplates that the creditors may reduce the principal amount owed, the provider may charge a nonrefundable fee for consultation and obtaining a credit report, a monthly service fee, and a settlement fees. Fees cannot total more than 18% of the principal.
- An agreement can be voided by a consumer if it includes fee not allowed by the law or if the provider is not licensed in Delaware. Alert the Attorney General's Consumer Protection Unit at 302-577-8600 if you think that a debt management company you have dealt with might have violated these provisions.
- A debt management provider must give the consumer a monthly statement each month that the plan is in effect, upon cancellation of an agreement, and at any time within 5 business days of a request by the consumer, limited to once per calendar month.
- Remedies for violation of the law include administrative action by the Attorney General and private enforcement action by a consumer.

There is a wealth of information about debt management service providers from consumer advocates and government agencies. The links below will help you understand the industry and make informed decisions.

<http://ftc.gov/bcp/online/pubs/credit/kneedeep.htm>  
<http://ftc.gov/bcp/online/pubs/credit/debt.htm>  
<http://ftc.gov/bcp/online/pubs/credit/fiscal.htm>  
<http://ftc.gov/bcp/edu/pubs/consumer/credit/cre41.htm>  
<http://ftc.gov/bcp/online/pubs/alerts/bankrupt.htm>